

## **ENVIRONMENTAL QUALITY COUNCIL**

November 15, 1996, Montana State Capitol

Original Minutes with Attachments

### **COUNCIL MEMBERS PRESENT**

Mr. Jerry Noble, Chair  
Rep. Vicki Cocchiarella,  
Vice-Chair  
Sen. Vivian Brooke  
Sen. William Crismore  
Sen. Steve Doherty

Rep. Dick Knox  
Mr. Glenn Marx  
Sen. Ken Mesaros  
Rep. Scott Orr  
Mr. Jerry Sorensen  
Rep. Bill Tash

### **COUNCIL MEMBERS EXCUSED**

Sen. Lorents Grosfield  
Rep. Bill Ryan  
Rep. Debbie Shea

Mr. Greg Tollefson  
Sen. Jeff Weldon

### **STAFF MEMBERS PRESENT**

Ms. Martha Colhoun  
Mr. Todd Everts  
Mr. Larry Mitchell  
Ms. Kathleen Williams

### **VISITORS' LIST**

Attachment 1

### **COUNCIL ACTION**

Voted to approve the minutes of the October 4 EQC meeting.

Voted to approve the Procedural Guidelines for Implementation of SB 231.

Voted to approve the Montana Environmental Indicators Report.

Voted to continue the present Indicators Subcommittee and their role of review and discussion.

Voted to approve the Compliance & Enforcement Subcommittee Final Report

Voted to sponsor the NRIS water bill, and later find a legislative sponsor.

Voted to invite the Ground Water Assessment Steering Committee to give a written and verbal status report to the Council.

### **CALL TO ORDER AND ROLL CALL**

The vice-chair called the meeting to order at 8:40 am, and asked the secretary to take note of the roll.

### **APPROVAL OF MINUTES**

The Council voted unanimously to approve the minutes of the October 4, 1996 meeting.

However, SEN. BROOKE noted that while the minutes accurately reflected what had actually been said, that an attachment to the minutes was missing. JOHN ARRIGO, who spoke at the last meeting, had said that he would provide the Council with a memo explaining the inaccuracy of his statement regarding a money amount, and who was paid to make phone calls to solicit funds for the Pony Mill Cleanup. The DEQ did not pay \$2000 for phone calls; the funds apparently came from the mining community. MR. EVERTS agreed to check with MR. ARRIGO regarding adding a parenthetical which would then be attached to the minutes.

### **ADMINISTRATIVE MATTERS**

#### **Celebration Success**

MR. EVERTS, Legislative Environmental Analyst (LEA), reported that last night's gala event, "Celebrating 25 Years of Success" of the Montana EQC was successful.

### **Todd Everts' Position Formalized**

REP. COCCHIARELLA noted that MR. EVERTS' position as LEA had been approved. While the appointment had not been controversial, it had been almost comical in its complications. She added that Speaker Mercer had indicated that the Legislative Council wants to be part of the hiring process in the future, so there will be some kind of joint personnel committee with Legislative Council and the EQC. Hopefully, MR. EVERTS will be here a long time and can remember this procedure if it becomes necessary.

### **MEPA SUBCOMMITTEE REPORT**

SEN. MESAROS distributed a copy of the history of SB 231 (EXHIBIT 1) and gave the context for the MEPA Subcommittee report, which deals with regulatory restriction analysis. Guidelines were prepared by agencies instead of rules in order to comply with the goal of House Joint Resolution 5 to reduce rather than expand the number of administrative rules. Though agencies are inexperienced at performing this analytical function, these guidelines assist state agency personnel in analyzing alternatives which reduce, minimize, or eliminate regulation of private property rights. He then introduced JOHN NORTH, Chief Legal Counsel, from the DEQ, who covered procedural guidelines for implementation of SB 231 (EXHIBIT 2). In the discussion which followed, SEN. MESAROS noted the highly technical nature of the report, which he referred to as supplemental to all the rest of the MEPA process. When REP. KNOX asked how many meetings had been needed to produce these guidelines, SEN. MESAROS answered "five." MR. KNOX further questioned the wording on II(B)(1)(c) which he called unclear and contradictory. SEN. DOHERTY said the intention behind the language was to indicate that

MEPA requires state agencies to not only think before they act, but also that they document what they think before they act. The agency must implement the least costly option unless it explains why not. Readers would now have the opportunity to check the agency because the process would be documented on paper. SEN. DOHERTY agreed with REP. KNOX that a parenthetical would help clarify the wording in II(B)(1)(c).

MR. EVERTS suggested that MR. NORTH provide an example of how the guideline would be applied in a real situation. MR. NORTH explained how four options were available regarding a certain road, including whether to widen the existing one or build a new one. The options cost various amounts ranging from \$200,000 to \$500,000, and the decision was made to upgrade the existing road. The decision process considered not only what was least restrictive to private property, but financial costs, safety factors, and the priority of preserving a pristine area. Then, the decision process was documented. MR. NORTH agreed to write a parenthetical and show it to MR. EVERTS. SEN. MESAROS said he had no objection. It was moved, seconded, and unanimously approved to adopt these guidelines.

### **INDICATORS PUBLICATIONS PRESENTATION**

MR. SORENSEN gave the background of how the booklet (EXHIBIT 3) was created. He said he is satisfied with the results of the process, and feels the production of this report is picking up a first step that was begun earlier. Now the subcommittee is ready to distribute 1,600 copies to the Council, the public, and others for review. They are actively soliciting suggestions for improvement by formally requesting certain parties to review the publication, asking agencies how useful the report will be, and targeting some experts at universities, etc. for feedback. After

the feedback is compiled, then the process will continue, and the subcommittee will report back to the full Council. MR. SORENSSEN requested that another subcommittee be established to review the feedback comments, to seek approx. \$10,000 (to compile the information from sources such as the private sector and grants), and to replicate this document for the next biennium, and thereby create an ongoing tool for the EQC. While he noted it would be hard to track trends in small, e.g., two-year, increments, five- or ten-year increments could give reliable, consistent indicators to give good data. The indicators report would be a good tool for the EQC to use to decide Council priorities, and to decide if trends require action. The subcommittee is seeking response relative to interest areas, and by county.

Subcommittee member, REP. TASH, added that the publication is now being given to the EQC for review, and the subcommittee is hoping for formal acceptance at the next meeting. He mentioned that suggestions for comprehensive changes were made at yesterday's meeting, and that a revised comment sheet will be forthcoming and inserted in the back of the publication. He acknowledged the EQC staff and other staff members who exerted leadership and coordination to put together many fragments into a readable document.

SEN. MESAROS complimented all involved for the good product which he said was high-quality and informative. He especially liked the size, format, and layout.

MR. MARX mentioned that the goal was to make the document look as though it were sent from one person to another, not generated by a computer. He considers the publication marvelous in that regard, and, in fact, it is the best presentation of information of its kind that he's ever seen the state produce. Although the document is not as high-impact a report as originally thought

because of the decision to tell people not what to think, but what to think about, he added his compliments.

REP. COCCHIARELLA said it was incredible that such a product could be produced in such a short period of time. She told of a school teacher who was thrilled to see the information in the report, and noted that you can't share information you don't have. She stated the importance of getting this information into schools and libraries.

REP. TASH stated that even though there are copyright franchises to deal with, the report should be readily available. The subcommittee wants to put it out to wide circles, especially schools-- middle schools, and higher education and libraries.

MR. MITCHELL noted that after 1,600 copies are mailed out, there will be 300 in reserve.

SEN. BROOKE asked about getting the report information on Montana's Homepage. MR.

EVERTS referred to Lee Heiman, who has put the Legislative Branch on the Homepage, as a person who has offered his assistance. MR. NOBLE confirmed that committee members will get copies, and hoped more would be printed if needed. MR. EVERTS noted that a fee may have to be charged at some point. REP. COCCHIARELLA asked how legislators were going to get their copies. REP. TASH replied "by mail." MR. NOBLE asked where the money to mail is coming from, and REP. TASH responded that the 98 cents each it costs to mail has already been

budgeted. MR. EVERTS pointed out the bulk rate inditia on the back of the report, and said there are funds to mail 1,600 copies only. SEN. MESAROS asked for a break-down of distribution areas. MR. MITCHELL listed those who would receive copies, including all legislators, executive agencies, staff, educational centers, schools, libraries, county offices, interested persons list, newspapers, media offices, and six copies to each EQC member. MR.

NOBLE said the subcommittee had done a tremendous job, and asked when the copies would be mailed. MR. MITCHELL answered that once the Council approved the document, and the response form was revised, the report could be mailed next week. It was moved, seconded, and unanimously approved that the document be accepted. It was moved, seconded, and unanimously approved that the same subcommittee in the next interim of EQC review feedback regarding the publication, and continue discussion and work on the document as they deem appropriate. MR. NOBLE reminded the staff to look for funding for a new edition of the indicators report every two to four years.

#### **COMPLIANCE AND ENFORCEMENT SUBCOMMITTEE REPORT**

REP. KNOX stated that the Compliance and Enforcement Subcommittee finished the work that HJR 10 mandated, and documented it in the *Final Subcommittee Report* to the EQC. (EXHIBIT 4) He complimented the extraordinary effort by the staff, and said the final product was tremendously enhanced by their hard work and dedication. REP. COCCHIARELLA commented on the process saying they had no map or blueprint, and, in fact, struggled for two meetings to figure out how to begin. They did manage, however, to create a model for how to get to these recommendations. Having agencies report to the subcommittee has created partnerships. If the recommendations are implemented, she said Montana citizens will experience positive results. She said the agencies were great, the subcommittee was great, and the staff made it all possible. She noted that the recommendations were generic; the subcommittee didn't pick on anyone in particular. The findings and recommendations were stated as directions for the future, without blame. The comparisons to other programs were valuable.

REP. KNOX added his thanks to the agency directors for fulfilling the large time commitment required on their part. The review of 28 programs took a huge amount of staff time. While the work was onerous, it was productive. He noted that although requests for review and comment were sent to over 350 different entities, they received only two comments. The meaning of that fact is open to interpretation. He speculated “perhaps we wore them out with paper.” He pointed out that the report from the self audit committee task force was added after the review copies were distributed.

### **Self Audit Bill Report**

TOM EBZERY, an attorney from Billings, served with SEN. DOHERTY and REP. ORR , among others, on the Self Audit Working Group. He said the group looked at two options: bring back HB 412 or the EPA self audit policy instituted in other states. After several unproductive meetings, they found a South Dakota statute which was clearly written. In a discussion with JUDY BROWNING in the Governor’s office, MS. BROWNING replied that she liked the simplicity of the South Dakota bill, whereas HB 412 made the issue more complicated and brought back some of the original problems. Her comments were well-taken, and integrated in the current recommendations (see page 16 of EXHIBIT 4). The working group modified the South Dakota legislation, and added three conditions, so that it could become the starting point for a bill draft request. MR. EBZERY noted that if you don’t like self audits, you won’t like this product either, but at least it will be usable; it could be beneficial and taken seriously. He reported that we’re closer than he’d thought earlier to having a bill that most of the working group could support.



MS. CALLAHAN, an attorney with Montana Power Company, was also in the working group regarding the self audit bill. Her job was to incorporate comments, and she agrees that a simple bill can be crafted, and can be usable. She said their self audit bill would incorporate the concerns mentioned on page 17 of EXHIBIT 4. She was encouraged that people thought voluntary compliance is a good idea, since she also feels it is a wonderful way to fix problems and prevent future problems.

GEORGE SCHUNK, from the Attorney General's Office, was not present at yesterday's subcommittee meeting, but was a participant during the study, and had reviewed the materials. He felt the staff had created a good summary of the meetings. He said self auditing is a significant issue at both state and federal levels, and there is much concern in industry about how to self audit. It is to companies' and the public's advantage to do voluntary compliance vs. "control and command," or "catch and punish" polarization, even though there are occasionally bad actors who need punishment. He stated that immunity is a contentious issue with lots of debate regarding whether secrecy has any place in a self audit, and it is, in fact, a big issue in the 20-30 states who have passed a self audit policy. He concluded that self audits are desirable and to be encouraged. He said it is also important to protect the public's right to have input; if immunity of any kind is given, we have to show it's a good idea to give immunity, and we certainly don't want to give immunity for criminal conduct. He thanked MR. EBZERY and MS. CALLAHAN for doing a lot of "lawyering." He said the legislature needs to decide how to make it work because the Governor's office and the task force aren't "close" yet to having a good bill. He said his job would be to execute whatever the legislature decides.

ANNE HEDGES from the Montana Environmental Information Center (MEIC) said she was surprised to hear that MR. EBZERY thinks we're closer to a good bill. She said the task force should not keep meeting because we keep coming up with the same unresolved issues: criminal immunity, economic benefit immunity, and secrecy, i.e., keeping information from the public and agencies.

REP. KNOX thanked her for her testimony yesterday and today. He said he felt the self audit task force did make measurable, significant progress even though issues of contention still exist. Overall, it was a fruitful and worthwhile process, and he's confident it will work this session.

MR. NOBLE asked if it was the subcommittee's intention to try to get a self audit bill before the Council. REP. KNOX said "no," then REP. ORR said he would bring back the self audit bill. It will be significantly different than last time. It won't be a consensus bill, but it will be heard in the legislature.

### **Discussion of the Study**

REP. COCCHIARELLA said the Compliance and Enforcement Subcommittee chose to incorporate MR. MITCHELLS comments, and got as far as they could. Since there are unresolved issues, someone like REP. ORR needs to bring it to the legislature.

REP. KNOX said that MR. ARRIGO suggested the subcommittee act as facilitator to identify language, come up with inconsistencies regarding enforcement, and incorporate that in the recommendations. When people in other states were contacted about the primacy issue, the response was mixed and lukewarm. Apparently, people felt their problems were different from Montana's, and they were comfortable with how they were currently handling them. The

subcommittee felt no need to pursue this area further, so they eliminated recommendations. They intended to simplify the primacy language. They recommended that an ombudsman-like program, similar to the Air Quality Program, be added into other programs. They recommended that the EQC be involved in the natural resource reorganization that's taking place. The reorganization that was already under way in the natural resource agencies had direct implications for the study recommendations, and made their process somewhat difficult. It is the recommendation of the subcommittee that one piece of legislation come out of the study, and that is a report to the legislature regarding enforcement and compliance efforts made by state agencies. That piece of legislation will be ready to present to the full EQC at the next meeting. REP. KNOX directed attention to page 18 of EXHIBIT 4 which listed the subcommittee recommendations.

MR. MARX referred to #5, on page 21 of EXHIBIT 4, saying that there are voluntary grazing BMPs emerging from the work of the state of Montana and conservation groups. He suggested that it would be a good idea for the EQC to receive a briefing on the status of that language regarding voluntary compliance. Since it is site specific, and fairly protective, it could be helpful. He then referred to page 19, #4, last line: "Topics and extent will be coordinated between agency and EQC staff." He said he hoped this was designed to elicit meaningful communication, and was not just a time-consuming information exchange. Then he asked in which form it would be most helpful for state agencies to respond.

REP. KNOX answered that a report from the directors or staff would be timely because of the intertwining of the subcommittee's recommendations and the reorganization of the agencies. He specifically requested verbal reports from the DEQ, the DOA, and the DNRC (Fish and Game

were intentionally excluded), addressing those recommendations at the next Council meeting.

MR. MARX said he would arrange these reports.

REP. KNOX commented on the Best Management Practices, and the major effort that was made to involve industry and private sector in voluntary BMPs. They did large mailings, and he was surprised that they got minimal response. The time has come to pursue voluntary BMPs, and that emphasis will bear fruit in the future, he said.

### **Forum for New Legislators**

MR. NOBLE asked about organizing a forum for new legislators. REP. KNOX agreed that it would be a good idea to have a joint meeting between the House Natural Resource Committee and the Senate Natural Resource Committee. A copy of the compliance and enforcement report will be sent to all senators and representatives anyway, he said, and he would be willing to present this study at that forum, if desired. MR. NOBLE referred to a two-hour forum two years ago on hazardous waste held in the first two weeks of the session to review a similar document.

REP. KNOX replied that such a forum would be useful because this was a major effort, with comprehensive recommendations. He stated that the subcommittee would like approval or rejection of the report. It was moved, seconded, and unanimously approved to accept the compliance and enforcement subcommittee report. MR. NOBLE commended the diligence of all involved, and urged consideration of a forum for not only committees but all new legislators to give them a chance to learn what the EQC is, and its significance.

MS. WILLIAMS added that from the staff point-of-view, there are three products: the report, draft legislation, and the thick "book." MR. NOBLE asked how many "big books" will be made.

MR. EVERTS answered “not many” and that they would be produced on request. A copy of the report, however, would be printed for each legislator, and then technical supplements would be available for those who want them.

### **RIT SUBCOMMITTEE REPORT AND RECOMMENDATIONS**

Because REP. RYAN and SEN. GROSFIELD were absent, MR. EVERTS briefly covered the RIT Subcommittee report. He directed attention to the draft of the RIT committee bill commissioned by the Legislative Finance Committee (LFC), which is studying the RIT.

(EXHIBIT 5) He noted that the LFC has not seen the study bill yet, but they will be meeting next week, and the bill may wind up looking very different than it looks now. The draft basically asks the legislature to pass a bill that would require a comprehensive study of the RIT and the tax; it creates a unique committee to do that, and sets out some duties. He described the new sections 1-3, the formation of the committee, its duties, and appropriation. He explained how the eight members of the committee would be appointed. The subcommittee’s intent was to “spread the pain around,” in that the work of this committee would be such a large undertaking. Although a lot of ground work has already been done by staff and the LFC to define duties, one reason this study bill is being requested is that not all parties having an interest in the RIT were at the table, especially parties with an interest in renewable resources. With more contenders for RIT funds appearing in the legislature, the LFC wanted to make sure the priorities for expenditures were reviewed. In Section 3 on Appropriation, MR. EVERTS explained that the \$14,000 budgeted for the study by DAVE BOHYER, Research Director at Legislative Services Division, was to fund six meetings and administrative costs. MR. EVERTS noted that

SEN. GROSFIELD and REP. RYAN would have further comments on the bill draft at the next meeting. He indicated that TAREN PURDY, Senior Fiscal Analyst, was present to answer questions for the LFC.

MR. SORENSEN said he agreed with the approach taken by the RIT Subcommittee, and asked MR. EVERTS if he had a sense of what would happen to the money, whether it would be given to the same people as last time. MR. EVERTS replied that he thinks it will be a “madhouse,” as it always is when RIT is involved, and there’s a pot of money available. He expects several bills, and has already received one bill draft from SEN. KEATING to prioritize the funding of RIT for mining for oil and gas reclamation, and to repeal the tax when the trust fund reaches the \$100 million cap. Among the various activities taking place, he said SB 382 deals with proportionate liability and where funds would come from for orphan shares on state superfund sites. He mentioned that SEN. BROOKE had pointed out that dams across the state, e.g., Rock Creek Dam, need repair. He said the key for policy-makers is to prioritize how they think RIT money should be spent since there isn’t enough to go around.

MR. NOBLE said he’d heard that the number of programs receiving RIT funding has increased in ten years from five to fifteen, so there will no doubt be five to ten more programs who want some of the money in the RIT pot. He said it makes sense to establish a committee who hears and decides the priority issue. REP. TASH said he saw similarities here and with the work of the Compliance and Enforcement Subcommittee work. i.e., performance partnerships, encouraging block grants, and block grant recommendations for performance.

MR. NOBLE said he wanted input from REP. RYAN and SEN. GROSFIELD since they were instrumental in the RIT Subcommittee. MR. EVERTS reported that REP. RYAN said this bill

looked fine to him. REP. RYAN and SEN. GROSFIELD were the ones who presented the recommendations to the LFC, and some were adopted. MR. EVERTS directed attention to the September 18, 1996 memo to the LFC (EXHIBIT 6), specifically regarding Recommendation #1, (Narrow Uses of the RIT Interest and Proceeds to Specific Purposes). The LFC said they think this needs to be looked at, and requested a committee bill to do that. Though he had faxed him a copy of the bill, MR. EVERTS didn't know if SEN. GROSFIELD had looked at it or not. MR. NOBLE said he knew we'd hear more at the next meeting regarding the status of the bill draft request.

#### **FORESTRY BEST MANAGEMENT PRACTICES (BMPs) AUDIT REPORT**

MR. MITCHELL introduced GEORGE MATHIEUS, who put together the audit report for 1996 (EXHIBIT 7), sent out earlier in the week, which rates voluntary best management practices in Montana. He and CHRIS TOOTELL work with the Department of Natural Resources and Conservation (DNRC), Forest Management Division, Service Forestry Bureau. BMP's were an initiative of this Council in 1988, as a result of a house resolution by the legislature, who requested the EQC to look at the watershed effects of forest management practices in Montana. A series of meetings was held with technical groups, and committees from industry and regulatory groups, and a series of BMPs was developed, with recommendations they be implemented.

Before the two staff members gave a quantitative analysis of the audit, BUD CLINCH, DNRC Director, gave the context for the results of the annual audit program. First, he told what factors are helping to increase the implementation of BMPs. The BMP program continues to have new

and innovative things happening, even though the program is ten years old. The program includes a vast educational effort; a BMP booklet; brochures; SMZ management; riparian management; workshops for landowners, loggers, and professionals; and continued industry support for a logging professionals program. All these on-going efforts are accomplished through unique partnerships -- not agency driven -- between agencies, industries, environmental organizations, and educational professionals from around the state. Montana's approach of voluntary BMPs and education continues to gain continued interest, support, and replication in other western states. Representatives in meetings from Washington, Oregon, California, and Idaho have all admired Montana's efforts, accomplishments, and on-the-ground achievements. All those states have highly regulated programs. Their interest is in both the BMPs themselves, and in the BMP booklet. MR. CLINCH held up a color booklet (EXHIBIT 8), an educational tool which informs loggers and landowners regarding BMPs. Over 20,000 have been distributed. Colorado, Idaho, Wyoming and South Dakota have all inquired, and all have either accepted or slightly modified Montana's BMPs and have reprinted the Montana publication in almost duplicate form. This shows widespread acceptance of the concept. (Later in the meeting, he held up booklets from other states showing how remarkably similar they looked to Montana's original creation.)

He said he's proud the same is true of Chile, South America, a developing country with forest products. He was invited there, for three weeks at their expense, because they had heard of the Montana BMP approach, and wanted to learn the Montana BMP audit process. With a Chilean audit team, he actually conducted BMP audits on twenty industry sites there and completed a report. Since then, Chilean contingents have come to Montana twice to learn more, and they



now produce the booklet in Spanish. The program, practices, procedures, and educational efforts continue to grow. Regulated states, tied to strong bureaucratic programs are struggling, yet we're growing, he said, and support from various interest groups, including the environmental community, is an integral component of our success. He expects this growth to continue. He complimented this Council and their predecessors who had the foresight to have confidence that this program could work.

MR. NOBLE commended the group for their work and the booklet. He asked them to supply the Council members with copies. When MR. NOBLE asked how the booklet is distributed, MR. CLINCH answered that it is distributed widely through industry, mass mailing, and workshops. It is also distributed through the Montana Stewardship Program to all the field offices, and, as appropriate, to inquiries, which now includes several other states. The most recent inquiry was North Carolina, who finds the concepts of education, user friendliness, and graphic visual presentation applicable even though tree species are different. Now there is a companion booklet for streamside management zone laws. (EXHIBIT 9)

MR. NOBLE said he was interested in the distribution because the EQC had just created a great publication too. He asked about distribution to schools and libraries saying people don't inquire if they don't know something exists. MR. CLINCH agreed that conflicts, accusations, and emotional rhetoric regarding forestry and forestry practices stem from lack of knowledge. Before presenting the results of this year's audit, CHRIS TOOTELL, who, as Chief of the Service Forestry Bureau of the DNRC, oversees the Montana BMP program, said the school suggestion is excellent and he will follow-up on it. He said they had reviewed 44 timber sales, approximately the same number as in the past, looked at as many as 47 different practices

involving harvesting, road construction, road maintenance, etc., and graded each of those practices. He explained what is involved, who comprises the audit teams, and the procedure for reviewing harvested areas, especially those associated with streams and wetland areas. He said they encourage participation from the contract logger involved, and the landowner if it is a private sale, and they usually attend. The team is then able to ask them questions, but huddles independently to come up with collective grading. The audit is a learning experience for both landowner and loggers from whom they receive positive comments. There have been few audit changes since 1990, hence historical comparisons are valuable. The audits answer two basic questions: 1) was this BMP applied? 2) if applied, did it do what it was intended to do? e.g., protect water.

He introduced GEORGE MATTHIEUS, graduate student in the U of M forestry school, now coordinator of audits. MR. MATTHIEUS distributed an Executive Summary (EXHIBIT 10) and referred to EXHIBIT 7 upon which his slide presentation was based. When REP. KNOX asked about stabilization practices, MR. CLINCH explained that most of Montana is not flat, so when a road is constructed, a cut is made into a bank. This creates newly exposed soil, and areas where soil is cast to the side, called the fill-slope. These areas are, in road construction, most vulnerable to erosion until they're regenerated. The stabilization BMP is intended to encourage operators to re-seed and establish stability on the sites to make sure erosion doesn't transfer soil off-site.

REP. TASH asked if it is common to re-seed other disturbed areas. MR. TOOTELL replied yes, that skid trails, landing areas, and sometimes the road surface itself, e.g., temporary roads that won't be maintained after the end of harvest, are re-seeded, or have some other soil stabilizing

practice applied to prevent soil movement. REP. TASH asked who and what determine the type of seeding used. MR. TOOTELL replied that that is not regulated and people arrive at the choice of grass mix in a variety of ways. He said audit groups were more concerned with whether the site was stabilized than with which grass species was used. SEN. CRISMORE added that he is directly involved with re-seeding: In doing road maintenance for Plum Creek, they had put out over one ton of grass seed this year, and in the last three weeks, had put out many miles of road, actually re-seeding every bit of exposed soil including the driving surface of the road. Some of the grass seed cost \$4/lb , then was mixed with fertilizer which was bought by the ton. He joked that the deer and elk are so fat in his area because the grass is so great.

MR. MITCHELL noted that some of the tables MR. MATTHIEUS had just referred to had been used on page 11 of the Indicators publication in the section on “Forests.” He said the Indicator group had tried to integrate the latest statistics, but the 1996 audit report was still in draft form when the Indicators document went to press.

MR. NOBLE asked for an example of what constitutes a “minor” departure from a BMP. MR. MATTHIEUS mentioned operation equipment moving, say, ten feet into the SMZ, or the mismarking of an SMZ boundary. MR. CLINCH added that another example is failure to mark the SMZ with paint or ribbon, and said that many operations rely on the discretion of the operator to know where to cut without marking. The final report shows there was no impact on resources from failure to mark the SMZ, but it’s still a departure from the BMP. When MR. NOBLE asked what is the most common way to mark the SMZ, MR. CLINCH answered that an orange ribbon flag is the easiest and most common marker.

REP. TASH asked about side-casting. MR. MATTHIEUS answered that it refers to pushing road material over an embankment into a stream; it occurs during road maintenance, when grading a road. SEN. CRISMORE added that side-casting can also refer to the whole management zone, not just the stream itself. He said he is familiar with this because he was recently shown how an operator had nosed some rocks over a bank onto an old road that had not been used for 25 years; the rocks didn't get into the creek, but they did get into the 50' SMZ, so it was identified as a departure. REP. KNOX asked how many of these minor departures have an impact. MR. CLINCH answered that he didn't have exact figures, but only a small number of incidents of lack of flagging result in actual damage. He said they may want to evaluate in the future whether this BMP is necessary since documentation continues to show that operators can operate at a safe distance without physically marking the SMZ. They want clarity for the operator, yet want to minimize bureaucracy. MR. TOLLEFSON said he's heard that people don't mark the SMZ if they don't intend to harvest in or near the 50' zone. This misinterpretation needs to be cleared up, since strict application of the BMP still requires flagging or marking of the zone.

REP. TASH asked about the distinction between a live stream and intermittent flow. MR. MATTHIEUS answered that, among other factors, a Class I stream is perennial; it flows year round and supports fish. A Class II stream flows less than six months a year, and contributes to a Class I stream. A Class III stream flows less than six months a year, and does not contribute to a Class I fishery. MR. CLINCH pointed out that stream classification is dealt with in the two booklets, Exhibits 8 and 9, and that the issue of what is perennial or intermittent is not black or white. MR. TOOTELL noted that streams are also rated differently in autumn.

MR. MATTHIEUS said he was particularly pleased with Recommendation #5 on page 3 of the Executive Summary, “Recognize the need to formally involve Nonindustrial Private (NIP) landowners into the entire BMP audit process.” MR. MARX noted that since 1990, application is increasing dramatically and departures are dropping. Then he asked if compliance has peaked or if we should expect to see it improve. Even though the goal is 100% compliance, he wondered if the top has realistically been reached. MR. CLINCH said two factors are involved: 1) the level of compliance is increasing, and 2) the ability of the audit teams to evaluate practices is improving. Because the audit teams are more severe and detailed in their evaluations now, improvement figures actually indicate greater improvements than previously. He said it is unrealistic to expect 1-2% improvement annually now that compliance is already in the 90 percent figures. He said the focus should be on keeping increasing involvement, rather than on the percentage points.

REP. KNOX asked if initially there were concerns that these voluntary practices would become mandatory, and whether there was ever disinclination of people to participate because of that perception. MR. CLINCH said that since 1986-88, perhaps because he was naive or because he was committed to the process, he was convinced the BMP program would stay voluntary. There were those people, however, especially some from the environmental perspective, and even some from the landowner and industry perspective, who weren’t convinced this would become an effective program. Then the attitude changed five years into it, and now all stakeholder groups believe voluntary BMPs are effective and want to continue. REP. KNOX expressed that, in light of work on the Compliance and Enforcement Subcommittee, there appears to be reluctance and

apprehension about voluntary BMPs becoming regulatory in areas other than forestry. MR. CLINCH said that there was fear that voluntary BMPs were the start of a regulatory program, but then the program far surpassed expectations so that it now exceeds the level of inspection that any one large program could implement. Now there is confidence the program works, and the strongest supporters are those who were reluctant at first. To apply this experience to other interest groups, he suggested looking at the evolution of forest practices regulations in the last twenty years, specifically in the last ten years, in the Northwest, and particularly in Montana, and noting that there were real incentives for key individuals to take this program and develop it. He's not sure the same incentives or same scenarios exist on other fronts, hence there is different receptivity and motivation. While the voluntary approach works well for the forest products industry, in another situation he urged the Council to be cognizant of players, political forces, resources, etc., and to determine the appropriate approach.

SEN. MESAROS asked for an estimate of the level of participation in BMPs in the logging industry as a whole. MR. CLINCH said that the early 1980s started with 200-300 participants. Last year, over 2,000 people attended their workshops. Application of voluntary BMPs on statewide operations is now universally accepted. It's hard to find a forestry person now who doesn't apply the BMPs, but he doesn't know the exact number of participants. He said the program has been so successful because of the buy-in of two key groups: operators (Montana Logging Association) and purchasers of the products (major manufacturing facilities) who have urged their members to participate. Montana is unique in developing partnerships and trust between the agency, the manufacturing sector, the environmental community, and operators in

the logging groups. The key to the program is to develop trust and credibility among the individuals involved.

SEN. DOHERTY asked if the SMZ of 50' is adequate. MR. CLINCH said that although the minimum is 50', the law calls for varying widths when other criteria are met, e.g., the SMZ often grows wider to protect wetlands and cut slopes. MR. TOOTELL answered that the issue is whether the audits show the 50' minimum is adequate. He said he feels people don't give them feedback either way--that the SMZ should be greater or smaller--because the current combination of distance and BMPs is effective. He said the distance is immaterial; what is material is whether sediment reaches the stream.

MR. NOBLE expressed concern that his four granddaughters in grade school hear teachers say things like "Never cut a tree." He is concerned not only about students but about what teachers think. He said the educational challenge of the BMP program may be to get more information into the school system, starting with young kids to let them know we're here, doing it right, and not hurting the environment by cutting trees. SEN. CRISMORE referred to the Western States Legislative Task Force's visit here. He has attended meetings of that group in other states and in British Columbia in the last two years, and Montana is considering becoming a member of that group again. He turned the hosting of the visit over to Keith Olson , Montana Logging Association, who attempted to show the group how Montana operates the voluntary BMPs. It was a fantastic tour of both state lands and private lands, and the unanimous response was: "You have the most precious thing here, this voluntary program--don't lose it! You're spending no

money and doing a better job than we are in our mandatory programs.” He said British Columbia spends millions, yet Montana is far ahead in water, wildlife, fisheries, etc. Oregon is doing great with salmon recovery but spending millions. In these western states, and even in the East Coast timberlands, Montana is considered picture-perfect. REP. KNOX agreed that BMPs are a beacon, and the future promises voluntary BMPs for other industries. He said the EQC should continue its role in encouraging voluntary BMPs, and must emphasize the word “voluntary.”

REP. KNOX noted that the Compliance and Enforcement Subcommittee received a letter (EXHIBIT 11) late yesterday from the Montana Forest Owners Association (MFOA) expressing their concerns regarding their participation in the BMPs. He asked MR. CLINCH to address these concerns. MR. CLINCH said that he had just gotten a copy but was familiar with the issues. He explained that the group is new, an association of non-industrial forest landowners; they collectively own a substantial amount of forest land in Montana, and have become an important component in providing wood products and locations of timber harvests. He said MFOA President, THORN LIECHTY, contacted the DNRC about his desire to become more involved in the BMP process. MR. CLINCH said the DNRC had failed to adequately explain to nonindustrial private landowners (i.e., from small, rural, woodlot owners, to large ranching operations) who have timber, what kind of follow-up action, if any, occurs when the DNRC conducts an audit, and finds a departure. He explained that when the audit teams started doing something about violations, this precipitated concern from forest owners who said, “Wait! You didn’t say you’d slap our hands if we departed from BMPs. We thought this was voluntary!”



Therefore, prior to this year's round of audits, the department had lengthy discussions with MR. LEICHTY and the MFOA, and was able to craft a letter which MR. LEICHTY and all audited landowners signed. The department said it would work with the landowners to correct problems, but that ultimately if there were noncompliance, the DNRC would exert regulatory authority. He said some further wordsmithing of the letter is necessary to send the message that we are cooperative first, and use regulatory authority only later if the landowner is not cooperative. In addition, MR. CLINCH said, MR. LEICHTY is taking an increasing interest in the audit process. MR. LEICHTY is concerned that the interdisciplinary teams do not currently designate a nonindustrial landowner in their makeup. MR. LEICHTY wants teams to expand to include "a nonindustrial private forest landowner" regardless of expertise. The Department's concern, in contrast, is that technical aspects be evaluated, not that all constituents be represented. MR. CLINCH said they are still working on this unresolved issue with the MFOA because they don't want to upset the balance of something that is extremely successful. REP. KNOX referred to the strong language used in MR. LEICHTY's letter, and emphasized that it is imperative to keep working with this group. MR. CLINCH reassured the Council that the Dept. has a better relationship with MR. LEICHTY than the tone of his letter reflects, and that they really aren't at "loggerheads."

REP. KNOX asked for more information about the MFOA. MR. TOOTELL answered that it is a fledgling organization, growing in membership throughout the state, with perhaps 100-150 members now. It just began with the last legislative session. The group's intention is to protect forest landowner interests in politics and legislation. Though their membership is not large, and

the organization is less than two years old, it is an energetic group and is probably here to stay. MR. CLINCH reaffirmed that the department will try to resolve their issues with this group. REP. COCCHIARELLA asked if any other group had asked how to implement BMPs, since MR. CLINCH had referred to differing strategies, key players, motivations, etc. MR. CLINCH responded that while he has had conversations with mining industry people and stockgrowers, the conversations haven't gotten very far. As a realistic optimist, he said he thinks BMPs could be applied in these and other areas. MR. MARX reminded the Council of the international spread of the BMP program's fame to South America, and facetiously added that MR. CLINCH has a 6-8 hour slide presentation documenting same, in which he stars as "El Gringo Loco," (Crazy White Man), a nickname he apparently earned while in Chile.

GORDIE SANDERS, Resource Manager of Pyramid Mountain Lumber of Sealy Lake, and Chairman of Montana Wood Products Association, Resource Committee, said he has been involved in the audit process and development of BMPs long before HJR 49. He has participated in each audit, either as a team member or a team leader, since 1988. On behalf of the lumber industry, he expressed thanks to the DNRC staff for its professionalism and dedication. With the staff's support and oversight, the program has dealt positively with all parties, truly making it a win-win program for the state of Montana by removing the need for an expensive mandatory program. Nevertheless, the lumber industry can improve, he said, and they want to come up to the standards of application and effectiveness of BMPs met by other public agencies and timber companies. (He clarified that the SMZ marking is required by law, and is not just a BMP.)

He described current educational efforts of the industry, including a 30-minute program by Forests for the Future, regarding the BMP audit process, road drainage, culvert installation, and slash-filter roads (key areas where there were departures). The Missoula County Conservation District recently produced a stream crossing booklet. The Montana Logging Association just put on their first road construction workshop. Some companies like Pyramid have even taken the position that contractors should be accredited logging professionals, and the program developed by the Montana Logging Association (MLA), is largely responsible for increased cooperation from contractors. The MLA has initiated and aggressively promoted their water education program to benefit everyone across the state. MR. SANDERS publicly acknowledged the leadership of the MLA for making measurable gains in such a short period of time, and said he was encouraged by the cooperative nature of the BMP program.

SHERM ANDERSON, logging contractor from the Deer Lodge area, represented the Montana Logging Association, and said he appreciated getting the “pats on the back.” He worked on the original task force drafted by this Council to establish BMPs in 1987. Serving on one of the audit teams gave him insight regarding on-the-ground operations, he said. He said the MLA was pleased with the results of the BMPs and their report card. He pledged the MLA’s continuing efforts in the process both they and the DNRC have developed to educate the MLA membership. He said the MLA wants to both improve their image, and protect resources. Currently from his position as president of the American Logging Council, he sees it is very evident with the BMP program, that Montana is far out in front of everyone else -- even the Northwest. Because the program is voluntary, it is unique, and therefore scrutinized by many

other states. Since the MLA consists of logging professionals, other states are asking why they should reinvent the wheel. They're just where the MLA was ten years ago, he said, so they can learn from us. He has been invited to the University of Colorado to put on workshops for the forest industry. Speaking for the logging industry, he stated that they will continue to educate both their membership and nonmembership to the value of BMPs and the protection of stream sites, rather than just "how to put dollars in their pockets."

REP. TASH asked about helicopter logging, winter logging, and their effects on BMPs. MR. ANDERSON referred to the written BMPs which cover these topics. In winter, the impacts on soil, land, and water are not as bad as in summer, so, he said, they encourage contractors to look at those impacts. The MLA is often caught in the middle because landowners--whether state, private, or whatever--dictate what they want, then sawmills who purchase the timber from them dictate what they want. The sometimes difficult job of the MLA is to find the happy medium and implement the best option on the ground by adhering to all the laws and coming out with the best, most affordable result.

## **WATER OVERSIGHT REPORT**

### **Instream Flow Update**

BRUCE FARLING, Executive Director of the state chapter of Trout Unlimited, reported on the progress, since the last legislature, of HB 472 which allows private parties to lease water rights for instream flows for a ten-year period. It also allows the water-right holder to leave instream the water they historically consume, if they would like to protect it through the program's water rights system and prior appropriation. He explained that HB 472 was the result of nine months

of negotiation under the aegis of the Montana Consensus Council (MCC). He named the negotiators and said they had had relatively civil discussions regarding how to advance the consensus approach to protect state instream flows. They came up with the bill which REP. KNOX and SEN. GROSFIELD shepherded through the legislature. The bill went through very smoothly (relative to the battle in the past ten years regarding this topic), thanks to the sponsors, and the people who decided to sit down and talk things out before it got to the legislature. Although instream flow protection has been a volatile topic in Montana, the topic has calmed down because, he said, the parties are now paying attention to each other's needs.

MR. FARLING reported that there has been only one lease produced. It is now in the completion stage, and involves seven private landowners of the Nine-Mile Drainage on the Clark Fork below Missoula. He referred to the memo prepared by MATT McKINNEY from the MCC (EXHIBIT 12). He said they are using this lease to run through the change-of-use process with the DNRC, and the public notification requirements, to see how it will work out. He warned the Council to not be alarmed that there haven't been more leases. The MCC is advocating different mechanisms in different watersheds around the state to help local landowners get together with the conservation community (e.g., wildlife and fisheries people), to deal on a voluntary basis with difficult water rights issues. They are putting their time into establishing grassroots committees representing different interests who share concern for water quality, and then letting those people create leases among themselves. All-volunteer, grassroots groups are springing up all over the State to make water go further for more uses, e.g., the Upper Clark Fork Steering Committee, the Black Foot Challenge, the Black Foot Drainage, the Big Hole Watershed Group,

the Ruby River Task Force, the Bitterroot Water Forum, and several others. Trout Unlimited hopes to screen leasing potentials, sort through them, and then introduce small-scale instream flow leases. Their goal is to let locals do it, and then provide technical expertise. He thinks it will be a successful program. He distributed a brochure on Leasing Water Rights (EXHIBIT 13). The Department of Fish, Wildlife, & Parks still has its 10-year leasing program, which is up for renewal in 1999. He asked the legislators to think about ways to continue that program, since, with approximately 15 leases, it has been successful, due to its cooperative approach that benefits both landowners and anglers.

REP. KNOX asked MR. FARLING to expand on the problems with the change process. MR. FARLING said he had only one example from the Nine-Mile Creek lease. It was more expensive than anticipated because he had to hire a lawyer to run it through the change-of-use process of the DNRC. Though it's an ungauged stream, he said they had to demonstrate to the DNRC that water is available. To do this they had to hire a hydrologist to identify some comparable streams, crunch some numbers, and compare them to what water this particular drainage would yield. He requested the Council to make the paperwork easier regarding having to demonstrate that water is available, especially in situations like this one where there are no objectors. He said the statutes are OK, but the process needs to be simplified. REP. KNOX noted that the agricultural community would obviously be protective of that kind of statute. MR. FARLING agreed, and then made two more requests of the legislators on the Council: 1) to advance the development of grassroots watershed committees to create cooperative water use, and 2) to help promote this consensus approach in the ranching/farming industry. He said he

wasn't the best person for that task, and that stockgrowers may need a peer or neighbors to sell it to them.

### **Renewable Resource Grants and Loans**

JOHN TUBBS, DNRC, reported on the results of the ranking process for the grants applied for, and the Governor's recommendations to the legislature (EXHIBIT 14). He explained that the program is now one single grant program from the 1993 Session, and that it is a combination of the 1975 and 1981 programs. The \$2 Million for grants come from the interest from RIT funds, while loan funds are proceeds of state-issued bonds, and are paid back through loan payments. He explained that the application process is advertised in the winter months, then May 15 is the application deadline. A successful new development is that five chapters within the application have been standardized (with the Treasury State Endowment Program and The Community Development Plot Program) so applicants don't have to fill out duplicate forms if they apply to more than one program. In August, 2.5 full-time staff reviewed 51 applications, with the help of engineers on municipal and waste water applications. A ranking team of eight people then made recommendations to the Director Clinch. In September, Director Clinch took these recommendations to the Governor, and then in October, the Governor's office adopted these recommendations. They will be reviewed by the Long-Range Planning Subcommittee in the upcoming session. HB 6 will be the grant bill; HB 8 will be the loan bill. After that, legislators get to vote. He explained that the EQC has the statutory responsibility to look at these recommendations because these projects provide one of the avenues for the legislature to directly implement water policies in Montana. The mix of grants has remained historically the same: 1/3

municipal related, i.e., water and waste water; 1/3 resource planning studies; and 1/3 streambank protection-type efforts. He pointed out that the cut-off line now is after project #24 on EXHIBIT 14, even though other projects are also very good. (They only recommended against the last three on the sheet.) REP. COCCHIARELLA confirmed her understanding that projects listed above #25 are going to get funding if the legislature agrees. MR. TUBBS said that the \$2 million will go into the RIT account unless the statute changes.

MR. NOBLE asked MR. TUBBS to explain why a loan request (#7 on the list) was ranked along with the grant applications. MR. TUBBS replied that the ranking team wanted to indicate their priorities regarding resources allocation. MR. NOBLE questioned whether the senator from the City of Fort Benton could work to get this money as a grant. MR. TUBBS replied that Fort Benton could definitely have competed for a grant, especially since their application is well thought of.

SEN. DOHERTY asked what the bonds are backed by. MR. TUBBS answered coal severance tax bonds. SEN. DOHERTY asked whether the Bond Council or anyone at the DNRC had addressed the possibility of the state losing the Crow coal suit. He asked if the state got a multi-million dollar judgment against it, in the form of a lien against the state's resources, would their ability to do business be impacted? MR. TUBBS said they had not considered this directly. Constitutionally, he said, the outstanding bonds are protected, but such an event may affect ability to issue future bonds. SEN. DOHERTY responded that he thought limiting the ability of the legislature to tinker with current bonds is a good thing. MR. TUBB concluded by reinforcing MR. FARLING's request to the Council to support the grassroots efforts. He gave the example



of the Big Hole River project in Beaverhead County which is a direct offshoot of the planning work of the resource group in the Big Hole. He said they need funds so they can get information so they can carry on an intelligent dialogue with everyone involved.

### **Water Information**

ALAN COX, Director of the Natural Resource Information System (NRIS), spoke about this program that is housed in the State Library. His group is trying to identify tools and make information more accessible. They have created an on-line clearinghouse of 500 sources for natural resource information, including information from the Geographics Information System (GIS) program. This summer, the NRIS GIS program won an international award for making information available. He also mentioned the newest project of the Natural Heritage Program, which protects threatened, rare, endangered, and sensitive plant and animal species -- an on-line species guide, which is like a field guide, but which costs \$50,000 less than the colored print version. He is satisfied that people are getting the access they need now that his group is serving thousands of patrons per month over the internet. He announced that today, the Department of Fish, Wildlife, & Parks, hosted by the NRIS server in the library, is unveiling their homesite. They did the hard work, he said, and NRIS provided technical assistance. Exciting opportunities include public access 24 hours a day to hunting regulations, fishing regulations, and publications. The GAP Analysis Project offers an assessment of Montana's biodiversity, including information regarding vegetation for the western third of the state. That set of information is now on CD Rom for anyone who needs that information in a mapping environment. He said that Bureau of Land Management ownership information, and land survey

data are now free on the internet in individual form for people to use. Activities to increase access now include an active program to get these resource tools into schools, K-12. NRIS is helping schools to identify natural resources information and find new technology tools to make use of it. In partnership with the University of Montana, they now have a traveling lab that goes to teachers, and trains them on weekends regarding how to access natural resource information. He said his group wants to support the EQC by helping to disseminate information, and pointed out, for example, that through the library system, NRIS can help distribute the new indicators publication, and make it known that it's available.

### **Water Data Management System**

JIM STIMSON, Coordinator of the NRIS Water Information System at the Montana State Library, appeared before the Council to give the required update on the Water Information System. MR. STIMSON explained how the DNRC was given a legislative mandate in 1985 to establish a water data management system, but because money was not included with the mandate, the program lay dormant. That was the same time the NRIS program was started.

LARRY THOMPSON, the first director of NRIS, did a survey and tried to identify what types of data users need. The desire for water information came to the forefront, with people saying some types of water information were still difficult to obtain. MR. THOMPSON formed a partnership with the DNRC to construct the water information program required in the DNRC's legislation. MR. THOMPSON got start-up funds from a water development grant which initiated the hiring of MR. STIMSON with the NRIS program in 1987. The NRIS program

became functional in '89, independent of DNRC expertise, and now operates under an advisory committee, and reports to the EQC on status and progress.

MR. STIMSON said he wants to approach the legislature to ask if legislation that pertained to the DNRC can be changed to be directed to the NRIS, because that is where the project is housed. MR. STIMSON has consulted with GARY FRITZ at the DNRC, and both are in agreement that the water program fulfills the requirements of the law, and that NRIS is the best long-term home of water information. He referred to a memo to the EQC (EXHIBIT 15) which suggests changes to the legislation. He called it a tame piece of legislation, simply for "housecleaning"; the requirements would be cleaner if directed to the group doing the work and responsible for the work. He requested a sponsor for the legislative changes. MR. NOBLE asked if NRIS wanted this bill to come from the EQC or the DNRC. MR. STIMSON said that while they had no one in mind to be the sponsor at this time, they wanted advice and feedback from the Water Policy Committee and the EQC, to find out if the EQC is supportive. SEN. MESAROS said that after a brief review, he concurs with the intent of this suggestion. REP. ORR recommended that the EQC sponsor this bill and then find a legislative sponsor. This was moved, seconded, and unanimously passed.

During his explanation of the Briefing Summary he distributed (EXHIBIT 16), MR. STIMSON discussed a proposal he wrote to the Renewable Resources Grant Program to help NRIS start the Climate Information Center (see #6 on grant list -- Exhibit 14) to replace the one at MSU that closed. Numbers from the Palmer Drought Severity Index are needed for drought maps. He said the information is out there, and taxpayers have paid for it, but they can't get to it until service

capability is formalized with NRIS or Water Information. He clarified that the goal of his proposal is not to do research, and NRIS by law can only provide data, not provide interpretations. He and JESSE ABER, DNRC, want to access existing data, and package it for drought monitoring, recreation, agriculture, and tourism. They want to use the GIS to make maps and graphics available.

MR. STIMSON itemized special projects, and mentioned the Ground Water Assessment Steering Committee (GWASC). He pointed out that the group has been meeting as a committee since October 1991, but has not reported back to anyone about how that program structure and committee structure is working. The GWASC differs from other advisory committees in state government in that the committee has authority to review expenditures, and has an oversight role for the ground water program. He suggested that he and other members of the GWASC come talk to the Council about the structure of their program and committee since it holds promise of being a model for other places, and some things may need to be improved. He formally asked the Council if GWASC could give written and verbal reports, and receive the Council's feedback. MR. NOBLE agreed that since the EQC setup the steering committee, the EQC is the appropriate place for them to report. It was moved, seconded, and unanimously approved to invite the GWASC to report to the EQC.

REP. TASH asked if the 730 wells on line, mentioned in the ground water discussion, include the ones in Beaverhead. MR. STIMSON said he believed so. He said that while the DNRC has their study going on there, they are providing information to TOM PATTON, hydrogeologist at

the Bureau of Mines. Then when the DNRC finishes that study, those wells will be adopted into the system, and TOM PATTON's crew with the monitoring program can take those over. This is the precedent now. He explained that when the NRIS knows of an existing monitoring program, the NRIS draws them in, because they provide a very concentrated look at ground water in a particular area.

MR. NOBLE said he had recently visited the new facility at the National Weather Service in Great Falls, and asked if NRIS could mesh with them in any way. MR. STIMSON said the new director, KEN MELKE, has been very helpful. MR. STIMSON is also working with DR. KELLY REDMOND, the University of Reno, who runs the Desert Research Institute. DR. REDMOND has a massive database on Montana and hopefully will supply NRIS with a new soil moisture index for the drought monitoring program. JESSE ABER has also visited the impressive facility, talked with the people, and is hoping to use that resource. NRIS expects them to be good partners. MR. NOBLE commented that the "big weather-seeking ball" in Great Falls has a problem with Helena because it can't get here in a straight line to see if our airport is socked in, and can't predict cloud structure here. The other weather information in the area comes from a satellite 25,000 miles out. MR. STIMSON said he thinks big changes are coming in the way information is delivered by way of radar and satellites.

REP. TASH asked if most of the snow measurements are done by satellite. MR. STIMSON answered that they have a system of automated snow pillows with platforms that collect the snow. Then they weigh the snow and make calculations about how much water equivalent is there. Right now that satellite information provided by the NRCS appears on the NRIS page.

The data shows the aerial extent of snow cover, and how low the elevation of snow pack is.

REP. TASH asked if the elevation on reservoirs such as Clark Canyon Reservoir regarding water level was also available. MR. STIMSON answered yes, that that information is now available on the internet, although even six months ago it was cumbersome to get the information, and nice maps were not in existence.

SEN. MESAROS asked whether NRIS will have the capability to produce maps similar to the Palmer Drought Index if NRIS is successful in getting the grant they've applied for. MR.

STIMSON said that actually a better measure than the Palmer Index is the Standardized Precipitation Index (SPI), and it will be available. The SPI is done in time increments, i.e., 3 months, 6 months, 1 year, 2 years, up to 3 or 4 years. You look, for example, at the last three months and ask how normal is this level of precipitation. The Palmer Index has idiosyncrasies, e.g., a 1-year lag time, so it is hard to make predictions when conditions change. After a lot of precipitation, the Palmer wouldn't reflect that fact for a year. The SPI, on the other hand, should reflect recent condition changes, and give different time slices. SPI may give short-term information for agriculture, and long-term information to help the drought committee do planning. SEN. MESAROS commented that when he was on the Water Policy Committee, the maps were very informative and worthwhile.

### **EQC Water Policy Report**

MS. COLHOUN emphasized that the brevity of the five-page report does not minimize the information received or discussions that ensued. She went through the four statutory responsibilities outlined in the Nov. 15, 1996 memo (EXHIBIT 17) and indicated how they had

been satisfactorily fulfilled. She also offered what she hoped was an interesting idea, namely, that the EQC have its own web page some day as a way to disseminate information.

### **OTHER BUSINESS**

MR. NOBLE pursued the idea of an educational forum for incoming legislators on the topic of enforcement. He asked if copies of the forum handouts from two years ago were still available.

MR. EVERTS answered that MR. NOBLE could definitely have copies of the handouts. He suggested a forum showing trends in a number of areas identified in the indicators document, not just waste management. He offered to provide that information to present to the legislature in such a forum. MR. NOBLE suggested that the EQC tell legislators what information is available, and where to get it. MR. EVERTS said the staff could provide a list they have published, along with the Legislative Services Division, of publications being produced this interim, and could also provide a listing of publications that have been done in the past. REP. COCCHIARELLA agreed that the EQC needs to make sure everyone in the legislature--not just the people on the Natural Resources Council--knows where the EQC is, who the staff are, and what they look like. She suggested an afternoon Open House, in the second week or early in the session, with publications on tables, and members of the EQC there. Except for minor expenses for refreshments, it would cost almost no money. MR. NOBLE asked MR. EVERTS to create such a forum, and REP. COCCHIARELLA offered to work with MR. EVERTS.

### **FUTURE MEETING**

MR. NOBLE announced the next meeting is Friday, December 6, 1996, even though SEN. WELDON has a conflict and cannot attend that day. MR. MARX confirmed that a half hour would be needed for the presentation on Agricultural BMPs, and additional time would be needed for questions since it's an emerging subject. MR. NOBLE said more time could be allotted to the topic if possible. The meeting was adjourned at 3:00 p.m.